BLOG

Understanding Substantial Gainful Activity and What Happens if You Exceed It

If you are receiving Social Security disability insurance (SSDI) you may be concerned about losing your benefits if you take a job and earn income. The Social Security Administration has created special rules to encourage some people who want to try to work, even on a part-time basis, but can't risk losing their benefits. To protect your right to receive benefits, you must understand the rules about substantial gainful activity (SGA).

What is Substantial Gainful Activity?

According to the Social Security Administration (SSA) definition, a person with disabilities does not qualify for disability benefits if they can participate in substantial gainful activity. In other words, if an individual with a disability earns more than a specific amount of monthly income, after deducting impairment-related work expenses, the government assumes the worker is engaging in SGA.

The limit of monthly income varies depending on the national average wage index.

The threshold amount for SGA purposes in 2021 is $1,310 for non-blind individuals and $2,190 for blind persons. This amount is adjusted yearly.

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When Does Substantial Gainful Activity Affect a Person With Disabilities?

If a person is receiving disability benefits but can work in some capacity, he or she may want to earn an income. However, to avoid losing their benefits in the process, they need to understand the parameters of SGA. To encourage people to find employment, the Social Security Administration created a nine-month trial work period that allows a worker to pursue employment while maintaining certain benefits.

The worker's benefits will not be affected unless the worker completes nine months of employment during which he or she receives more than the current SGA dollar amount limit. The nine months do not have to be consecutive and can occur anytime during a rolling 60-month time frame. The trial work period ends when the SGA has been exceeded in the ninth month.

What Happens After the Trial Work Period Ends?

Once the worker has earned more than the allowed SGA amount for nine months, the SSA reviews the circumstances to determine if the worker can maintain substantial gainful activity from that point forward. The underlying question is whether the work performed during the trial work period was enough to sustain the worker with a gainful living in the future.

If the worker's average income during the trial work period met or exceeded the SGA threshold, disability benefits are terminated. If the earnings fall under the SGA amount, benefits will continue. Once the initial trial work period ends, the worker moves into the next timeframe of consideration.

How Does SGA Affect the Worker After the Trial Work Period?

After the worker has completed the nine-month trial work period, the next phase of review is called the extended period of disability. This 36-month phase allows the SSA to review the worker's monthly income to see if the income exceeds the SGA in any subsequent month.

If the earner receives more than the SGA in any one month, he or she will not

receive a disability benefit check for that month. However, if the earnings drop below the SGA threshold again, disability benefits are paid for every month that the worker earns less than the SGA limit.

After these 36 months, if the worker receives more than the SGA amount in **any** month, disability benefits stop, even if the earnings drop below the SGA amount in a later month. If a worker has lost disability benefits due to exceeding the SGA limit in a month after the extended period ends, it's still possible to apply for reinstatement of benefits if the worker becomes disabled again.

If the worker received Social Security disability benefits within the past five years, the SSA has an expedited application process for benefit reinstatement. If more than five years have passed since the worker received benefits, he or she will have to submit a completely new application for disability benefits when they qualify again.

What if the Person with Disabilities is Hoping to Receive a Survivor Benefit (SSDI) on a Parent's Work Record Known as Childhood Disability Benefit (CDB) or Previously Called Disabled Adult Child (DAC) status?

If the worker is attempting to protect their eligibility to receive Social Security on a parent's work record due to being disabled prior to age 22, then all of the rules we've been discussing about SGA are completely different. If such an individual earns over SGA for even one month between their 22nd birthday and the day the parent retires, becomes disabled themselves, or is deceased, the child seriously risks their eligibility to collect CDB on their parent's record. This is very important for many individuals with disabilities as this amount is often a multiple of SSI or what they would receive from SSDI based on their own work history.

After the individual begins receiving CDB based upon a parent's work record, the rules change again. If they earn over SGA there is no longer the same serious risk of losing benefits, but rather the rules discussed above will begin to apply.

Special Benefit Situations for Working People with Disabilities

Earning income may also affect other benefits such as Medicare and Supplemental

Security Income (SSI). Medicare benefits continue during the trial work period and then remain in place for another 93 months, even if the worker is earning more than the SGA during that time. If the worker is still eligible for SSDI after the extended period ends, they still qualify for Medicare as well.

Special exceptions exist in cases where a worker performs volunteer work, is self-employed, or works for a family business. Also, if the money is earned through a return-to-work plan, such as the Ticket to Work or Plan to Self Support (PASS) programs, the earnings should not trigger a disability benefit review.

It is Critical to Not Exceed Substantial Gainful Activity

By failing to understand what qualifies as substantial gainful activity, a worker with a disability could lose benefits if they earn too much income. The SSA provides a complete explanation of how it determines what work is considered SGA in this comprehensive guide. If you have any questions about SGA, you can count on the team at Rubin Law to sort through the legalese to help you determine if your loved one with special needs can be employed without losing disability benefits.

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